

REMARKS

[0007] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-5, 10-11, 17-18, 20, 31-32, 35-37, 42-43 and 46-49 are presently pending. Claims 1, 32, 35-37, 42-43 and 46-47 are amended herein. Claims 6-9, 13-14 and 44-45 are canceled herein. No new claims are added herein.

Formal Request for an Interview

[0008] If the Examiner's reply to this communication is anything other than allowance of all pending claims and there only issues that remain are minor or formal matters, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0009] Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

Claim Amendments

[0010] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 31 and 42 herein. Applicant amends these claims to highlight claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

[0011] Support for the amendments to claims 1, 31 and 42 is found in the specification at least at pages 15-18.

Substantive Matters

Claim Rejections under § 103

[0012] Claims 1-11, 13, 14, 17, 18, 20, 31, 32, 35-37 and 42-49 are rejected under 35 U.S.C. § 103. In light of the amendments presented herein and the discussion during the above-mentioned Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0013] The Examiner's rejections are based upon the following references:

- **Tomsen:** *Tomsen, et al.*, US Patent Application Publication No. 2002/0147984 (Published October 10, 2002);
- **Gurevich:** *Gurevich, et al.*, US Patent Application Publication No. 2002/0073428 (Published June 13, 2002);
- **Sgaraglino:** *Sgaraglino*, US Patent Application Publication No. 2003/0229893 (Published December 11, 2003);
- **Alexander:** *Alexander, et al.*, US Patent No. 5,414,834 (issued May 9, 1995); and
- **Corey:** *Corey, et al.*, US Patent No. 5,703,655 (issued December 30, 1997).

Overview of the Application

[0014] The Application describes broadcasting interactive content without using triggers embedded in the broadcast content. When a viewer sees an item of interest while viewing a program, the viewer can initiate a request for information (RFI) about that item

with a single button actuation. When the RFI is entered, a client device, such as a set-top box, detects the RFI and transmits RFI data to a server, including the channel viewed, a time stamp and a system-defined amount of closed captioning data. The RFI data is cross-referenced with program time code information, programming guide information, program information and/or advertiser information to determine the context of the RFI, i.e. what the user saw that made the user enter the RFI. Information about the item is then sent to the viewer as a system message, an e-mail message, a post, or by way of any other delivery mode.

Cited References

Tomsen

[0015] Tomsen describes an interactive television system that initiates unprompted, context-sensitive requests for supplemental content related to a television broadcast or discrete segments thereof. The related supplemental content includes a wide variety of information types, such as news feeds, advertisements, images, streaming video and mechanisms used for completing an electronic transaction. Furthermore, Tomsen uses a time index and/or close captioned text in order to help identify supplemental content requested by the viewer.

Gurevich

[0016] Gurevich describes purchasing, downloading, and transferring audio and/or video data files through video broadcasts. The user signals the set-top box of his video

viewing system that he is interested in downloading the audio/video data file being offered. The box records the time, the channel being viewed, and, where applicable, the user ID. The box then sends this information to the controlling server when it next reports in. The server transmits the requested data, either over the Internet or by broadcasting it back to the set-top box, where it can be downloaded to a desired format.

Sgaraglino

[0017] Sgaraglino describes providing information to a user in response to a user request. The method includes the steps of displaying an object, the object including a selectable area, receiving the user request responsive to selection of the selectable area, retrieving a user delivery address, retrieving information associated with the selectable area, and delivering the information to the user delivery address. The system includes a user interface, an object displayable on the user interface, an input device for selecting the object, a program operable to receive the user selection, address data associated with the user, information associated with the object, and a device operable to deliver the information to the address data.

Alexander

[0018] Alexander describes storing and retrieving data contained in a "relational data table" in such a way that individual items of data are readily accessible and the data itself is compressible.

Corey

[0019] Corey describes retrieving segments of stored video programs using closed caption text data. The closed caption text data is extracted from video programming signals received by the invention. Text records based on the extracted closed caption data are generated. Each text record is derived from the closed caption data for a single continuous video segment to which the text record serves as an index or key in retrieving this video segment.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0020] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a *prima facie* case have not been met.

Based upon Tomsen, Gurevich, Sgaraglino and Alexander

[0021] The Examiner rejects claims 1-11, 13, 14, 17, 20 and 42-49 under 35 U.S.C. § 103(a) as being unpatentable over Tomsen in view of Gurevich, further in view of Sgaraglino, and further in view of Alexander. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0022] Applicant submits that the purported combination of Tomsen, Gurevich, Sgaraglino and Alexander does not teach or suggest at least the following features as recited in this claim (with emphasis added):

“A method, comprising:
detecting a request for information (RFI) initiated by a client user while accessing a content item;
transmitting RFI data to a server on a broadcast network,
wherein the RFI data includes:
a time at which the RFI was initiated;
a channel accessed at the time the RFI was initiated; and
closed caption data associated with the content item occurring prior to and including the time at which the RFI was initiated;
determining whether the content item is a program or an advertisement, wherein the determining comprises:

cross-referencing, at the server, a time at which the RFI was initiated with content item time code data to determine whether a program or an advertisement was scheduled at the time the RFI was initiated, wherein the content item **time code data includes intra-program information relating to when advertisements are scheduled within the content item**;
in response to no such content item time code data being available, using the closed caption data to derive search terms;
searching, at the server, a reference database using the search terms; and
determining from matches derived from the search whether the content item is a program or an advertisement;
in response to determining the content item is a program, **associating a rule defined in a program rules module** with the program, wherein the program rules module organizes a plurality of programs broadcast by the server into a table, the table comprising:

a program identifier column identifying the program for which the client user entered a request for information;
an action column providing information on what type of content related to the identified program is provided to the client;
a delivery mode column specifying a mode of delivery of the content related to the identified program to the client user; and
wherein the type of content provided in the action column and the mode of delivery specified in the deliver mode column

further indicate a network entity other than the server, from amongst a plurality of different network entities, the network entity other than the server to deliver the content related to the identified program;

in response to determining the content item is an advertisement, *associating a rule defined in an advertiser rules module* with the advertisement, wherein the advertiser rules module organizes a plurality of advertisers whom sponsor advertisements broadcast by the server into a table, the table comprising:

an advertiser identifier column identifying an advertiser sponsoring the advertisement for which the client user entered a request for information;

an action column providing information on what type of content related to the identified advertiser is to be provided to the client user;

a delivery mode column specifying a mode of delivery of the content related to the identified advertiser to the client user; and

wherein the type of content provided in the action column and the mode of delivery specified in the deliver mode column further indicate another network entity other than the server, from amongst the plurality of different network entities, the another network entity other than the server to deliver the content related to the identified advertiser; and

executing a respective associated rule defined in the program rules module or the advertisers rule module.”

[0023] In the Action, p. 3-10, the Examiner indicates the combination of Tomsen, Gurevich, Sgaraglino and Alexander teaches the elements as recited in this claim. Applicant respectfully disagrees.

[0024] Tomsen is directed toward pre-caching supplemental content related to a television broadcast using unprompted, context-sensitive querying. A change in a television program being displayed by an interactive television system is detected. In response, the interactive television system initiates an unprompted, context sensitive information request. The information request includes an identifier of the interactive

television system which is used *to return supplemental content to the interactive television system.* (Tomsen Para [0014-0015])

[0025] Tomsen goes on to suggest the information request may also include contextual information concerning the television program or segment thereof being viewed. For example, the contextual information may include one or more of (1) an indication of a channel being displayed by the interactive television system, (2) a time index, (3) an indication of a specific television program being viewed, and (4) one or more keywords taken, for example, from close-captioning text associated with the television program. (Tomsen Para [0016])

[0026] The information request is sent from the interactive television system *to a content source maintained by a broadcaster or cable operator.* A search engine within the content source uses the contextual information from the information request to search the content source for supplemental content related to the television program or segment thereof being viewed. The output of the search engine is a set of search results comprising items of supplemental related to the television broadcast. (Tomsen Para [0017])

[0027] Thus, Tomsen teaches transmitting (and pre-caching) supplemental content to the interactive television system *directly from the content source.* An example is further illustrated in Tomsen Para [0112] regarding a filtering process. In this paragraph, Tomsen teaches the filtering process may rely, in particular, on historically observed behavior of the user pressing the “FIND” button and selecting certain types of supplemental content. For example, if the user regularly presses the “FIND” button during advertisements to access commercial opportunities, the supplemental content for

such commercial opportunities may be always precached. Thus, Tomsen is strictly directed toward sending supplemental content to the end-user via the interactive television system.

[0028] While Tomsen suggests indexing a set of supplemental content with a fine granularity, such as specific items of supplemental content for each minute of a television broadcast, Tomsen does not disclose, teach or suggest “*the program rules module and the advertiser rules module*” as specified in this claim.

[0029] For example, Tomsen does not teach or suggest “*a delivery mode column*” as specified in the program rules module and the advertiser rules module because Tomsen is strictly directed toward directly delivering *from the content source*, the supplemental content to the end-user *via the interactive television system*. In fact, Tomsen teaches away from including more than one delivery mode. For example, as previously discussed, Tomsen is directed toward precaching supplemental content associated with commercial opportunities at the interactive television system, so the viewer can access the supplemental content as quick as possible. Thus, the only delivery mode Tomsen suggests is transmitting (including precaching) the supplemental content to the interactive television system, so that a viewer can access the supplemental content via the interactive television system in a timely manner.

[0030] In contrast, claim 1 specifies “*an action column* providing information on what type of content related to the identified program is provided to the client; *a delivery mode column* specifying a mode of delivery of the content related to the identified program to the client user; and wherein the type of content provided in the action column and the mode of delivery specified in the deliver mode column further *indicate a network*

entity other than the server, from amongst a plurality of different network entities, *the network entity other than the server to deliver the content related to the identified program.*” Thus, as specified in the claim, the program rules module and the advertiser rules module help support actions and delivery modes other than directly delivering from the content source, supplemental content to the interactive television system. This element is not disclosed, taught or suggested by Tomsen.

[0031] In the Office Action (p. 6-7) the Examiner modifies Tomsen by citing Gurevich. Applicant respectfully traverses this combination of references.

[0032] Gurevich suggests allowing viewers, through a single button-click, to order audio or video data associated with a TV program. When audio or video data, such as movies and songs, are offered during a television show, the viewer presses a button on the remote control for the set-top-box. The set-top box then records the time, date, and channel being watched. At the next point in which the set-top-box calls to check in with its governing server, it appends the data to the message being sent. A database matches the time, date, and channel with its available offers. The audio or video data material would then be delivered via the Internet, directly to the set-top box in an easily transferable form, or by regular mail. (Gurevich Para [0013])

[0033] Thus, Gurevich suggests sending the audio or video data *from the server to the end user.* (Gurevich Para [0023-0024]) Gurevich suggests using the *same server* to deliver data material via the Internet, directly to the set-top box, or by regular mail. Gurevich does not disclose, teach or suggest “wherein the type of content provided in the action column and the mode of delivery specified in the deliver mode column further indicate a network entity other than the server, from amongst a plurality of different

network entities, *the network entity other than the server to deliver the content related to the identified program.*” Therefore, Gurevich does not account for the deficiencies in Tomsen as explained above.

[0034] In the Office Action (p. 7-9) the Examiner next modifies Tomsen and Gurevich by citing Sgaraglino. Applicant respectfully traverses this combination of references.

[0035] Sgaraglino is strictly directed toward internet advertising, not television broadcast systems. As seen in Sgaraglino Figure 2, an advertisement is displayed via a web browser (#200), the system determines if a user has clicked on an Advertisement (#201), then the system obtains a user address (#202), collects follow-up material (#203) and sends follow-up material to the user address (#204). In this type of system, the actual advertiser is determined by where (an area) a user actually clicks on the user interface as illustrated in Sgaraglino Figure 3, for example.

[0036] Thus, the type of system suggested by Sgaraglino does not suggest a need for “a time at which the RFI was initiated; a channel accessed at the time the RFI was initiated; and closed caption data associated with the content item occurring” in order to help determine whether a content item is a program or an advertisement as recited in this claim. Therefore, Applicant respectfully submits that Sgaraglino is not combinable with Tomsen, and does not account for the deficiencies in Tomsen and Gurevich as explained above.

[0037] Finally, in the Office Action (p. 9-10) the Examiner modifies Tomsen, Gurevich and Sgaraglino by citing Alexander. Applicant respectfully traverses this

combination of references and submits that Alexander does not account for the deficiencies in Tomsen, Gurevich and Sgaraglino as explained above.

[0038] As shown above, the combination of Tomsen, Gurevich, Sgaraglino and Alexander does not teach or suggest all of the elements and features of this claim. Also, there is no reason to combine the teachings of the references. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Independent Claim 42

[0001] Independent claim 42 is asserted allowable over the cited references for at least similar reasons as those discussed above regarding claim 1. Accordingly, Applicant asks the Examiner to withdraw the rejections of this claim.

Dependent Claims 2-5, 10-11, 17, 20, 43 and 46-49

[0002] These claims ultimately depend upon one of independent claims 1 or 42. As discussed above, claims 1 and 42 are allowable over the cited references. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable over the cited references for at least the reason(s) its base claim is allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Based upon Tomsen, Gurevich, Sgaraglino, Alexander and Corey

[0003] The Examiner rejects claims 18, 31, 32 and 35-37 under 35 U.S.C. § 103(a) as unpatentable over a purported combination of Tomsen in view of Gurevich, in view of Sgaraglino, in view of Alexander and further in view of Corey. Applicant asserts that independent claim 31 is allowable over the cited references for at least similar reasons as those discussed above regarding claim 1. Thus, Applicant respectfully traverses the rejection of these claims at least because Corey does not account for the deficiencies in the combination of Tomsen, Gurevich, Sgaraglino and Alexander as explained above with respect to claims 1 and 42. Applicant submits that claim 18 depends from claim 1, and claims 32 and 35-37 depend from claim 31. Thus, Applicant asks the Examiner to withdraw the rejection of these claims.

Dependent Claims

[0004] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0005] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC
Representatives for Applicant

/Jacob Rohwer 61,229/ Dated: 2/17/2009
Jacob P. Rohwer (jacob@leehayes.com; 206-876-6004)
Registration No. 61229
Bea Koempel-Thomas (bea@leehayes.com; 509-944-4759)
Registration No. 58,213
Customer No. **22801**

Facsimile: (509) 323-8979
www.leehayes.com